IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

WEDNESDAY, THE 7TH NOVEMBER 2007 / 16TH KARTHIKA 1929

WP(C).No. 14713 of 2007(B)

PETITIONER:

KERALA STATE CO-OPERATIVE
CONSUMERS FEDERATION LTD., GANDHI NAGAR,
ERNAKULAM, REPRESENTED BY ITS
MANAGING DIRECTOR.

BY ADV. SRI.M.SASINDRAN

RESPONDENTS:

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1. KERALA STATE ELECTRICITY BOARD-
REPRESENTED BY ITS SECRETARY,
VYDHYUTHI BHAVAN, THIRUVANANTHAPURAM.

2. THE CHIEF ENGINEER, K.S.E.B.,
THIRUVANANTHAPURAM.

3. THE DEPUTY CHIEF ENGINEER,
K.S.E.B., ELECTRICAL CIRCLE,
PALAKKAD.

4. THE ASSISTANT EXECUTIVE ENGINEER,
K.S.E.B., CHITTOOR, PALAKKAD.

5. THE ASSISTANT ENGINEER,
K.S.E.B., ELECTRICAL CIRCLE,
KOZHINHAMPARA, NATTUKKAL,
PALAKKAD DISTRICT.

BY ADV. SRI.JOSE J.MATHEIKEL, SC, KSEB
SRI.P.P.THAJUDEEN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 07/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1- A TRUE COPY OF THE PREMISES METER CARD WHICH SHOW THAT IT WAS CATEGORIZED AS INDUSTRIAL

EXT.P2- A TRUE COPY OF THE ADDITIONAL BILL DATED NIL ISSUED BY THE ELECTRICITY BOARD.

EXT.P3- A TRUE COPY OF THE LETTER DATED 23.12.2003 SUBMITTED BY THE PETITIONER BEFORE THE 5TH RESPONDENT

EXT.P4- A TRUE COPYOF THE REPLY DATED 26.12.2003 ISSUED BY THE 5TH RESPONDENT TO THE PETITIONER

EXT.P5- A TRUE COPY OF THE PETITION CHALLENGING THE EXT.P4 SUBMITTED BEFORE THE THIRD RESPONDENT DATED 8.1.04

EXT.P6- A TRUE COPY OF THE COMMUNICATION DATED 20.7.05 ISSUED BY THE PETITIONER TO THE THIRD RESPONDENT

EXT.P7- A TRUE COPY OF THE STATEMENT SUBMITTED AT THE TIME OF HEARING ON 12.9.05

EXT.P8- A TRUE COPY OF THE ORDER DATED 19.10.2005.

EXT.P9- A TRUE COPY OF THE REVISION/PETITION SUBMITTED BEFORE THE CHIEF ENGINEER DATED 8.11.05

EXT.P10- A TRUE COPY OF THE COVERING LETTER REMITTING RS.60,044/- AND 10% OF THE AMOUNT DEMAND IN EXT.P2

EXT.P11- A TRUE COPY OF THE NOTICE DATED 23.3.2007

(TRUE COPY)

P.A TO JUDGE

THOTTATHIL B. RADHAKRISHNAN, J

W.P.(C).14713/2007

Dated this the 7th day of November, 2007

JUDGMENT

The writ petitioner took over an L.P.G Bottling Plant running concern from its earlier owner. According to it, electric supply availed by the previous owner under the industrial tariff was converted to be one under commercial tariff, without notice to the petitioner. With notice or not, the short issue be as to whether the establishment is liable to be covered as the industrial unit or as commercial unit under the Tariff Order, 2002.

2. Under such circumstances, without expressing anything on merits, this writ petition is disposed of directing that Ext.P9 will be taken up by the second respondent and a decision rendered in accordance with law and facts, after affording the petitioner an opportunity of being heard. If the second respondent concludes that the request of the petitioner cannot be acceded to, the case shall be placed before the Regulatory Commission to decide the dispute between the petitioner and the

Electricity Board and arrive at the appropriate tariff that would be applicable to the establishment of the petitioner. The second respondent will do the needful in the aforesaid manner within an outer limit of two months from the date of receipt of a copy of this judgment. Pending a final decision either by the second respondent or by the Regulatory Commission as the case may be, in terms of what is stated above, having regard to the fact that the petitioner has deposited the amount covered by the interim order dated 8.5.2007, it is directed that the enforcement of the demands in terms of Ext.P11 will stand suspended.

Writ petition is disposed of as above.

THOTTATHIL B. RADHAKRISHNAN
Judge

mrcs